

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
SOUTHERN DIVISION**

Plaintiff,)
vs.)

UNITED STATES BUREAU OF LAND)
MANAGEMENT, *et al.*,)

) **JOINT CASE MANAGEMENT**
Defendants,) **STATEMENT**

and)
)

SOUTHERN NEVADA WATER)
AUTHORITY)

Defendant-Intervenor.)

)

WHITE PINE COUNTY, et al.,) Case No. 2:14-cv-00228-APG-VCF
) (Consolidated)

Plaintiffs,)
)
US)

vs.)
)
UNITED STATES BUREAU OF LAND)

UNITED STATES BUREAU OF LAND)
MANAGEMENT, *et al.*,)
)

and)
)
)

SOUTHERN NEVADA WATER)
AUTHORITY,)

,
Defendant-Intervenor.)

_____)

Counsel for all parties in these two consolidated cases have conferred and propose the following joint case management statement and schedule to govern the proceedings in both cases. The parties agree that these are actions for review on an administrative record pursuant to the Administrative Procedure Act, 5 U.S.C. § 706 *et seq.*, and therefore shall proceed in accordance with Local Rule 16-1(c)(1). The parties are requesting longer than usual briefing periods and

1 extensions of the page limits due to the voluminous Administrative Record that is being prepared
 2 for the challenged actions and the large number of claims and complexities that are involved.
 3 The parties are in agreement that this case will very likely be resolved on cross motions for
 4 summary judgment. The parties note that the United States' Partial Motion to Dismiss certain
 5 Tribal claims in the *White Pine County* case [Dkt. No. 31] is still pending before the Court. The
 6 government's motion was initially filed under Case No. 2:14-cv-00228-ASB, and later refiled
 7 under consolidated Case No. 2:14-cv-00226-APG-VCF on June 10, 2014. The substance and
 8 timing of the Court's decision on the Partial Motion to Dismiss may cause the parties to seek
 9 modifications to the proposed schedule described below. The parties agree that, depending on
 10 the Court's ruling on the Partial Motion to Dismiss certain Tribal claims, the Tribes reserve the
 11 option to file separate briefs on the Tribal claims, within the collective page limits set forth
 12 below for the *White Pine County* Plaintiffs. If the Tribes do so, Federal Defendants and
 13 Defendant-Intervenor may also file separate briefs on the issues briefed by the Tribes within the
 14 collective page limits established for the *White Pine County* case.

15 All proposed deadlines below are for both consolidated cases.

16 1. Lodging of the Administrative Record¹:

17 November 21, 2014.

18 The parties agree, subject to the Court's approval that the administrative record may be
 19 submitted in electronic form on hard drives rather than in paper form.

20 2. Deadline for Seeking Leave to Amend Complaint:

21 January 30, 2015.

22

23 ¹ Federal Defendants will lodge one Administrative Record for both cases. Plaintiffs agree that
 24 for most claims in these two cases, the Court's review is limited to the Administrative Record,
 25 subject to certain limited exceptions. The complaints in both cases, however, include a claim
 26 seeking to compel the Federal Defendants to prepare a "Supplemental Environmental Impact
 27 Statement" (SEIS) pursuant to the National Environmental Policy Act. An action to compel an
 28 agency to prepare an SEIS is not a challenge to a final agency decision, but rather an action
 arising under 5 U.S.C. § 706(1), and therefore judicial review is not limited to the record as it
 existed at any single point in time. *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 560
 (9th Cir. 2000). The Federal Defendants and Defendant-Intervenor reserve the right to oppose
 any motion to supplement should one be filed.

1 3. Deadline for Parties to Confer on Record Disputes:

2 February 17, 2015.

3 4. Deadline for Filing Motion to Complete and/or Supplement the Administrative Record:

4 March 17, 2015.

If a motion to complete and/or supplement the Administrative Record is filed, any opposition will be due within 21 days after the filing of the motion, and the movant's reply will be due within 14 days after the filing of the opposition. If a motion to complete and/or supplement is filed, the summary judgment briefing schedule set forth below shall be stayed pending the Court's resolution of the motion. Within 10 days of an order of the Court resolving the motion to complete and/or supplement, the parties shall jointly submit a proposed revised summary judgment briefing schedule.

Assuming that no motion to complete and/or supplement the Administrative Record is filed, summary judgment briefing shall proceed as follows:

14 5. Deadline for each set of Plaintiffs to file: a) a concise statement of undisputed material
15 facts; b) summary judgment motions; and, c) supporting opening briefs (Plaintiff in
16 *Center for Biological Diversity* will be limited to 40 pages, and Plaintiffs in *White Pine*
17 *County, et al.* will be limited collectively to 60 pages):

18 || May 1, 2015

19 6. Deadline for the Federal Defendants to file their responses to each of Plaintiffs' motions,
20 and: a) a concise statement of undisputed materials facts; b) summary judgment motions;
21 and, c) supporting opening briefs (the combined response and opening brief in response
22 to each set of Plaintiffs' briefs will be limited to 40 pages in the *Center for Biological*
23 *Diversity* case and 60 pages in the *White Pine County* case);

24 || July 10, 2015

25 7. Deadline for the Defendant-Intervenor to file its responses to each of Plaintiffs' motions,
26 and: a) a concise statement of undisputed materials facts; b) summary judgment motions;
27 and, c) supporting opening briefs (the combined response and opening brief in response

1 to each set of Plaintiffs' briefs will be limited to 40 pages in the *Center for Biological*
2 *Diversity* case and 60 pages in the *White Pine County* case):

3 July 17, 2015

4 8. Deadline for each set of Plaintiffs to file their combined response and reply briefs
5 (Plaintiff in *Center for Biological Diversity* will be limited to 40 pages, and Plaintiffs in
6 *White Pine County, et al.* will be limited collectively to 60 pages):

7 September 4, 2015

8 9. Deadline for the Federal Defendants to file their final reply briefs to each of the
9 Plaintiffs' replies (Defendants' reply in the *Center for Biological Diversity* case will be
10 limited to 30 pages, and Defendants' reply in the *White Pine County* case will be limited
11 to 45 pages):

12 October 23, 2015.

13 10. Deadline for the Defendant-Intervenor to file its final reply briefs to each of the
14 Plaintiffs' replies (Defendant-Intervenor's reply in the *Center for Biological Diversity*
15 case will be limited to 30 pages, and Defendant-Intervenor's reply in the *White Pine*
16 *County* case will be limited to 45 pages):

17 October 30, 2015.

18 Respectfully submitted on October 17, 2014.

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2 IT IS SO ORDERED.

2 
2 _____
2 UNITED STATES MAGISTRATE JUDGE
2 DATED: 10-17-2014

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